

REMARKS

Claims 1-2, 4-8 and 10-14 remain pending after amendment.

***Claim Amendments***

By this amendment, claims 3 and 9 are cancelled. Claim 1 is amended to define the surfactant as "at least one anionic" surfactant consistent with cancelled claim 3. R<sub>2</sub> is also amended to be "ethyl or methyl" consistent with the disclosure. Various of the dependent claims are amended accordingly. Non-statutory claims 6, 7 and 14 are amended to be in a form consistent with U.S. practice. No new matter is added by this amendment.

***Rejections of Claims 6-7, 9 and 14 under 35 USC 101 and 112***

Claims 6-7, 9 and 14 stand rejected under 35 USC 112 (paragraph two) and 35 USC 101 as being in improper "use" format. In response, claims 6, 7 and 14 are amended to place the claims in a form consistent with U.S. practice.

The rejections are accordingly moot and should be withdrawn.

***Rejection under 35 USC 102(b) over Vanlerberghe***

Claims 1-14 stand rejected under 35 USC 103(a) as being unpatentable over Vanlerberghe et al U.S. Patent No. 4,303,639.

This rejection is respectfully traversed to the extent deemed to apply to the claims as amended.

In support of the rejection, the Examiner takes the position that the reference discloses a 1,2-alkanediol derivative of formula 1 wherein the variable X is oxygen. The Examiner further takes the position that the reference teaches the use of the noted derivative in cosmetics consistent with applicants' invention.

In response, applicants amend claim 1 to be directed to an embodiment where R<sup>2</sup> is methyl or ethyl. The corresponding R substituent of the surfactant of the reference contains a greater number of carbon atoms. The Examiner's attention is directed to column 1, lines 45-68; column 2, lines 10-24; and column 3, lines 5-9 of the reference in this regard.

In view of the above amendments and distinctions, the reference does not anticipate the claimed invention. The rejection is thus moot and should be withdrawn.

***Rejection under 35 USC 102(b) over JP '610***

Claims 1-2, 5-11 and 13-14 stand rejected under 35 USC 102(b) as being anticipated by JP '610. This rejection is respectfully traversed to the extent deemed to apply to the claims as amended.

In response, claim 1 is amended to state that the surfactant which is employed is an anionic surfactant. As claims 3, 4 and 12 are not rejected over the JP '610 reference, and as these claims

are directed to the use of an anionic surfactant, the cited reference cannot be deemed to anticipate the now-claimed invention.

Further,  $R^2$  is amended to be directed to methyl and ethyl substituents. As the examples of the reference teach the use of an  $R$  substituent which has at least 8 carbon atoms, the reference thus teaches away from the claimed invention.

The cited reference thus does not anticipate the claimed invention. The rejection is moot and should be withdrawn.

***Declaration under 37 CFR 1.132***

Applicants submit herewith a Declaration under 37 CFR 1.132 which confirms the patentability of the claimed invention.

The comparative examples of the Declaration employ a diol derivative wherein  $R^2$  is derived from 2-ethylhexyl or stearyl (which correspond to the teachings of the prior art). The Declaration makes clear the fact that the claimed surfactant composition exhibits unexpectedly superior improvement in thickening and foaming. See products 1 to 6 at Table 6 of applicants' specification in relation to the results of the Declaration.

The claimed invention is thus neither disclosed nor suggested by the cited prior art.

In view of the above, the application is believed to be in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John W. Bailey (Reg. No. 32,881) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

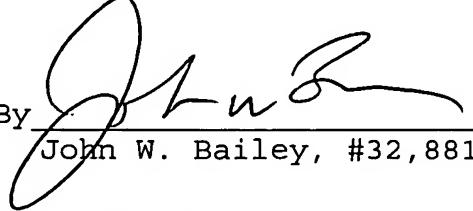
A check in the amount of \$120.00 is attached as payment for the requested one month extension of time.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

  
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0425-1128PUS1

Attachment: Declaration under 37 CFR 1.132